

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

*

CRIMINAL NO: 09- 029

v.

*

SECTION: “C”

EVERETT HORTON

*

*

* * *

FACTUAL BASIS

If this case were to proceed to trial the Government would prove the Defendant guilty beyond a reasonable doubt of Counts 1 and 2 of the Indictment. In those counts, the Defendant, EVERETT HORTON (“HORTON”) is charged with: *one*, participating in a conspiracy to distribute a quantity of cocaine base (“crack”); *two*, actually distributing a quantity of cocaine base (“crack”). The Government would establish the following through reliable and competent evidence:

On **September 23, 2008** at approximately 3:42 p.m., Morris Smith, a/k/a “Ice” (the co-defendant), arrived at the meet location (a bogus “store” on Oleander Street in the City of New Orleans and within the Eastern District of Louisiana) and informed the two undercover agents, Louisiana State Trooper (“LST”) David Flauss and Bureau of Alcohol, Tobacco, and Firearms

("ATF") Special Agent ("S/A") Jason Townsend, that he could sell them a 1/4 of an ounce of crack cocaine for \$225.00. Smith departed but shortly later returned to the store to tell the undercover agents he needed to wait for the crack cocaine to arrive. Smith borrowed S/A Townsend's cell phone calling number 504-609-7490 to arrange for the crack to be delivered to the store.

Smith advised that the individual bringing the crack was near the location so he and S/A Townsend walked outside the store to meet him. Smith advised S/A Townsend that the crack would be brought by someone driving a black Volvo. Moments later, the black Volvo was spotted at Oleander and Carrollton Ave. S/A Townsend gave Smith \$225.00 and saw Smith walk to the black Volvo which was parked about 50 feet from S/A Townsend. Smith entered the right rear door of the Volvo and sat in the right rear seat. S/A Townsend observed the driver turn to his right and converse with Smith and do what appeared to be an exchange. After the exchange, Smith exited the Volvo and walked back to S/A Townsend. As the Volvo departed the scene, S/A Townsend noted that the license plate was "RQC 570". S/A Townsend observed the driver, later identified as Everett HORTON, in the driver's seat of the car from approximately 15 feet away. The Volvo's side window was tinted but the front window was not tinted, thus allowing S/A Townsend an opportunity to see into the vehicle. The undercover agents later learned that the license plate was registered to an "Everett HORTON" d.o.b. 6/20/79. S/A Townsend was shown a picture of HORTON from Department of Motor Vehicle records and he confirmed that HORTON was the same individual he observed driving the black SUV Volvo.

Smith handed S/A Townsend a clear plastic baggie containing multiple small rocks which appeared to be crack cocaine. Smith then departed from the area for several minutes. S/A Townsend went back inside the store. While inside the store S/A Townsend counted seventeen (17) individually

wrapped small rocks in the plastic baggie that Smith had handed him. The suspected crack field-tested positive for cocaine. The LSP Crime Lab further tested the suspected crack cocaine and found that there was 4.73 net grams of cocaine base present.

The Government would also offer the testimony of Morris Smith. Smith would testify that Everett HORTON was indeed the driver of the black Volvo who assisted him in the crack transaction with S/A Townsend.

Finally, HORTON admits that on September 23, 2008, he conspired to distribute and actually distributed a quantity of crack cocaine, and he acknowledges that said conduct constitutes knowing violations of Title 21, United States Code, Sections 846 and 841(a)(1) and 841(b)(1)(C).

FREDERICK W. VETERS, JR.
Assistant United States Attorney

DATE

VINCENT MICELI
Attorney for Defendant

DATE

EVERETT HORTON
Defendant

DATE